

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

NOTICE OF CINCINNATI BELL TELEPHONE)
COMPANY OF A REDUCTION IN RATES) CASE NO. 9131
AND INQUIRY REGARDING REFUNDS TO)
KENTUCKY CUSTOMERS)

O R D E R

On July 25, 1984, the Ohio Supreme Court issued its decision requiring a refund and a rate reduction to be implemented by Cincinnati Bell Telephone ("CBI") for the Ohio customers in CBI's Cincinnati Metropolitan Service Area ("CMSA"). On September 7, 1984, CBI filed revised rates with the Kentucky Public Service Commission to comply with the concept of rate uniformity as previously sanctioned by this Commission so that rates throughout the Kentucky and Ohio portions of the CMSA would be consistent. On September 27, 1984, the Commission issued its Order approving the rate reduction and show causing CBI as to why it should not be required to refund the difference between the rates in effect since April 1, 1983, and the rates that would have been charged pursuant to "rate uniformity" had the Public Utilities Commission of Ohio's ("PUCO's") Order on Rehearing dated March 9, 1983, not been stayed by the Ohio Supreme Court. The Show Cause hearing was held as scheduled at the Commission's offices in Frankfort, Kentucky, on November 7, 1984. The Attorney General's Consumer Protection Division ("AG") was the sole intervenor in this

proceeding. Briefs for the AG and CBI were filed by November 29, 1984.

The Commission, after reviewing the evidence of record and being advised, has determined that a refund shall not be required in this instance since the Commission does not believe that it has retained jurisdiction to modify an Order now several years old for purposes of requiring a refund. In the future, on a case-by-case basis, the Commission will address contingencies such as those presented in this Show Cause proceeding. Together with other measures being required of Cincinnati Bell Telephone herein these actions should obviate this type of dilemma.

The Commission's action in this matter is not to be taken as approval of CBI's untimely notification of the PUCO's and Ohio Supreme Court's actions affecting rate uniformity or of CBI's apparent interpretation of rate uniformity. Although CBI stated that it had informally advised the Commission of developments before the Ohio Commission and the Ohio Supreme Court, in the future, CBI must inform this Commission by timely formal written notification of all actions by or pending requests for action before either the PUCO or any court which could have adverse effects on the implementation or continuation of rate uniformity between the Kentucky and Ohio CMSA.

As noted above, the Commission reduced rates on a prospective basis on September 27, 1984. Depending upon the outcome of CBI's appeal to the U.S. Supreme Court regarding depreciation decisions made by the PUCO and upheld by the Ohio

Supreme Court, a further reduction may be necessary. CBI should file a written status report with the Commission at the conclusion of that appeal.

ORDERS

IT IS THEREFORE ORDERED that CBI will not be required to refund to Kentucky customers of the CMSA the difference between the rates in effect since April 1, 1983, and the rates that would have been charged pursuant to "rate uniformity" had the PUCO Order on Rehearing dated March 9, 1983, not been stayed by the Ohio Supreme Court.

IT IS FURTHER ORDERED that CBI shall apprise the Commission in a timely manner via formal written notification of any actions by or pending requests for action before either the PUCO or any court which could effect the implementation or continuity of rate uniformity between the Kentucky and Ohio portions of the CMSA.

IT IS FURTHER ORDERED that CBI shall file a written status report with the Commission at the conclusion of its current appeal to the U.S. Supreme Court regarding depreciation.

Done at Frankfort, Kentucky, this 6th day of June, 1985.

PUBLIC SERVICE COMMISSION

Richard D. Herman
Chairman

Robert L. [Signature]
Vice Chairman

Sam Shelt
Commissioner

ATTEST:

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Secretary